

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DERRICK CAMPBELL,

Petitioner,

v.

CASE NO. 07-CV-14826
HONORABLE PAUL D. BORMAN

WARDEN CURTIS,

Respondent.

**OPINION AND ORDER DISMISSING CASE AND DIRECTING
THAT PLEADINGS BE FILED IN CASE NO. 07-CV-14607**

Derrick Campbell (“Petitioner”), a Michigan prisoner, has filed a *pro se* petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 challenging his conviction for delivery of less than 50 grams of cocaine which was imposed by the Washtenaw County Circuit Court in 1993. Petitioner has previously filed a habeas corpus petition challenging the same conviction, but he was given permission to file a second or successive habeas petition by the United States Court of Appeals for the Sixth Circuit.

Petitioner, however, has already filed a (second) habeas action challenging the same conviction with this Court, which is pending in this Court. *See Campbell v. Curtis*, Case No. 07-CV-14607. Accordingly, the instant action must be dismissed as duplicative. A suit is duplicative, and subject to dismissal, if the claims, parties, and available relief do not significantly differ between the two actions. *See, e.g., Barapind v. Reno*, 72 F. Supp. 2d 1132, 1145 (E.D. Cal. 1999) (internal citations omitted). The instant action is duplicative of his pending petition. In fact, it appears that Petitioner may have been attempting to file the instant

pleadings as part of his original habeas action, but the documents were erroneously filed as a new case. In any event, because Petitioner challenges the same convictions in both petitions and raises similar claims, the Court will dismiss this second petition as duplicative. *See Harrington v. Stegall*, 2002 WL 373113, *2 (E.D. Mich. Feb. 28, 2002); *Colon v. Smith*, 2000 WL 760711, *1, n. 1 (E.D. Mich. May 8, 2000); *see also Davis v. United States Parole Comm'n*, 870 F.2d 657, 1989 WL 25837, *1 (6th Cir. March 7, 1989) (district court may dismiss a habeas petition as duplicative of a pending habeas petition when the second petition is essentially the same as the first petition).

Accordingly, the Court **DISMISSES** the instant case as duplicative. This dismissal is without prejudice to the habeas petition filed as Case No. 07-CV-14607. The Court further **DIRECTS** that the pleadings filed in the present case be re-filed in Case No. 07-CV-14607.

This case is **CLOSED**.

IT IS SO ORDERED.

s/Paul D. Borman
PAUL D. BORMAN
UNITED STATES DISTRICT JUDGE

Dated: November 14, 2007

CERTIFICATE OF SERVICE

Copies of this Order were served on the attorneys of record by electronic means or U.S. Mail on November 14, 2007.

s/Denise Goodine
Case Manager